

# Title 72 WAC

## BLIND, WASHINGTON STATE SCHOOL FOR THE

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### Chapter 72-100 WAC ORGANIZATION

#### WAC

72-100-001 Description of organization.

#### **WAC 72-100-001 Description of organization. (1)**

The Washington state school for the blind is a state agency established and organized under the authority of chapter 72.40 RCW. The primary purpose of the school is to educate and train visually impaired children.

(2) The school operates under the direction and control of the superintendent. A board of trustees serves as an advisory board to the superintendent and to the legislature and performs various other functions as provided in chapter 72.42 RCW. The school for the blind is comprised of three components: Education; residential life; and support services. The school principal directs the education component. The director of residential life oversees the residential life component. Support services are provided by consolidated services under an interagency agreement between the Washington state school for the blind and the Washington state school for the deaf. Medical services and outreach programs are under the direction of the superintendent. A detailed organizational chart is available at the administrative office of the school.

(3) The administrative office of the school is located at 2214 East 13th Street, Vancouver, Washington 98661. Any person may obtain additional information and make submissions and requests at the administrative office.

[Statutory Authority: RCW 72.40.022. 90-16-003, § 72-100-001, filed 7/19/90, effective 8/19/90.]

### Chapter 72-108 WAC PRACTICE AND PROCEDURE

#### WAC

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72-108-100

Brief adjudicative procedure.

**WAC 72-108-010 Adoption of model rules of procedure.** The model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended, are hereby adopted for use at the school, with the following exception: WAC 10-08-190 Adjudicative proceedings—Cameras—Recording devices. See WAC 72-108-090 which determines the use of cameras and recording devices at adjudicative proceedings. Those rules may be found in chapter 10-08 WAC. Other procedural rules adopted in this title are supplementary to the model rules of procedure. In the case of a conflict between the model rules of procedure and procedural rules adopted in this title, the procedural rules adopted by the school shall govern.

[Statutory Authority: RCW 72.40.022, 34.05.220 (1)(a) and 34.05.250. 90-16-004, § 72-108-010, filed 7/19/90, effective 8/19/90.]

#### **WAC 72-108-020 Appointment of presiding officers.**

Unless the hearing is assigned to the office of administrative hearings, the superintendent or the superintendent's designee shall designate a presiding officer for an adjudicative proceeding. The presiding officer shall be an administrative law judge, a member in good standing of the Washington State Bar Association, a panel of individuals, the superintendent or his or her designee, or any combination of the above. Where more than one individual is designated to be the presiding officer, one person shall be designated by the superintendent or the superintendent's designee to make decisions concerning discovery, closure, means of recording adjudicative proceedings, and similar matters.

[Statutory Authority: RCW 72.40.022, 34.05.220 (1)(a) and 34.05.250. 90-16-004, § 72-108-020, filed 7/19/90, effective 8/19/90.]

**WAC 72-108-030 Method of recording.** Proceedings shall be recorded by a method determined by the presiding officer, among those available pursuant to the model rules of procedure in WAC 10-08-170.

[Statutory Authority: RCW 72.40.022, 34.05.220 (1)(a) and 34.05.250. 90-16-004, § 72-108-030, filed 7/19/90, effective 8/19/90.]

**WAC 72-108-040 Application for adjudicative proceeding.** An application for adjudicative proceeding shall be in writing. Application forms are available at the following address:

Washington State School for the Blind  
2214 East 13th Street, S-27  
Vancouver, Washington 98661

Written application for an adjudicative proceeding should be submitted to the above address within twenty days of the agency action giving rise to the application, unless provided for otherwise by statute or rule.

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[Statutory Authority: RCW 72.40.022, 34.05.220 (1)(a) and 34.05.250. 90-16-004, § 72-108-040, filed 7/19/90, effective 8/19/90.]

**WAC 72-108-060 Discovery.** Discovery in adjudicative proceedings may be permitted at the discretion of the presiding officer. In permitting discovery, the presiding officer shall make reference to the civil rules of procedure. The presiding officer shall have the power to control the frequency and nature of discovery permitted, and to order discovery conferences to discuss discovery issues.

[Statutory Authority: RCW 72.40.022, 34.05.220 (1)(a) and 34.05.250. 90-16-004, § 72-108-060, filed 7/19/90, effective 8/19/90.]

**WAC 72-108-070 Confidentiality of formal adjudicative proceedings.** In formal adjudicative proceedings, the presiding officer shall have the power to close all or part of the hearing to public observation. The presiding officer shall have the power to impose reasonable conditions upon observation of the proceeding and regulate the use of photographic and recording equipment to preserve confidentiality.

[Statutory Authority: RCW 72.40.022, 34.05.220 (1)(a) and 34.05.250. 90-16-004, § 72-108-070, filed 7/19/90, effective 8/19/90.]

**WAC 72-108-080 Procedure for closing parts of the hearings.** A party may apply for a protective order to close part of a hearing. The party making the request should state the reasons for making the application to the presiding officer. If the other party opposes the request, a written response to the request shall be made within ten days of the request to the presiding officer. The presiding officer shall determine which, if any, parts of the proceeding shall be closed, and state the reasons therefor in writing within twenty days of receiving the request.

[Statutory Authority: RCW 72.40.022, 34.05.220 (1)(a) and 34.05.250. 90-16-004, § 72-108-080, filed 7/19/90, effective 8/19/90.]

**WAC 72-108-090 Recording devices.** No cameras or recording devices shall be allowed in those parts of proceedings which the presiding officer has determined shall be closed pursuant to WAC 72-108-070, except for the method of official recording selected by the school.

[Statutory Authority: RCW 72.40.022, 34.05.220 (1)(a) and 34.05.250. 90-16-004, § 72-108-090, filed 7/19/90, effective 8/19/90.]

**WAC 72-108-100 Brief adjudicative procedure.** This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used in all matters related to:

- (1) Student conduct or disciplinary proceedings pursuant to WAC 72-120-225;
- (2) Amendment of education records pursuant to WAC 72-280-030; and
- (3) Residency determinations made pursuant to WAC 72-130-040.

[Statutory Authority: RCW 72.40.022, 34.05.220 (1)(a) and 34.05.250. 90-16-004, § 72-108-100, filed 7/19/90, effective 8/19/90.]

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## Chapter 72-120 WAC STUDENT CONDUCT CODE

### WAC

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### CONDUCT RULES

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### WAC 72-120-010 Student responsibilities and duties.

The mission of the Washington state school for the blind is to provide specialized educational services to visually impaired students which will assist those students to develop skills, competencies and attitudes that are fundamental to the development of responsible, contributing citizens. Admission to the Washington state school for the blind carries with it the obligation of responsibility for the welfare of the school. In order to advance the mission of the school, it shall be the responsibility and duty of each student to pursue his/her course of studies, respect the rights of others, comply with written rules adopted herein, and submit to reasonable disciplinary action for violation(s) of such rules. This chapter is intended to assure that disciplinary action is imposed for just cause and in a fair and reasonable manner.

[Statutory Authority: RCW 72.40.022. 90-16-005, § 72-120-010, filed 7/19/90, effective 8/19/90.]

**WAC 72-120-015 Student rights.** (1) Each student is guaranteed the following rights, within the limitations of statutory law and school policy which are deemed necessary to achieve the school's educational goals:

(a) Students possess the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and sexual harassment.

(b) Students possess the rights, guaranteed under the Constitution, to freedom of expression, free inquiry, and

peaceable assembly upon and within school facilities that are generally open and available to the public.

(c) Students possess the rights, guaranteed under the Constitution, to the free exercise of religion and to have their school free from sectarian control or influence, subject to reasonable limitations upon the time, place, and manner of exercising such right.

(d) Students possess the constitutional right to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures, subject to limitations set forth in RCW 28A.67.300, 28A.67.310, 28A.67.320, and 28A.67.-330.

(e) Students shall have the right to be free from unlawful interference in their pursuit of an education while enrolled at the Washington state school for the blind.

(f) Students shall not be deprived of the right to an equal educational opportunity in whole or in part by the Washington state school for the blind without due process including:

(i) Notice to the accused of the nature of the charges and the proposed disciplinary action; and

(ii) The opportunity to request a hearing as set forth in this chapter.

(2) The foregoing enumeration of rights shall not be construed to deny or disparage other rights guaranteed in the Constitution and the laws of the state of Washington.

(3) The school shall publish and make available to all students and parents, on an annual basis, written rules which state with reasonable clarity the types of misconduct for which disciplinary action may be imposed.

[Statutory Authority: RCW 72.40.022. 90-16-005, § 72-120-015, filed 7/19/90, effective 8/19/90.]

## CONDUCT RULES

**WAC 72-120-100 Conduct violations.** A student who, either as actor, aider, abettor, or accomplice, violates any provision of this chapter shall be subject to the disciplinary actions herein adopted. A student may be an accomplice, or found to have aided and abetted in committing a violation of the student conduct code if he or she associates with, encourages, promotes, or counsels another student in the commission of an offense, or participates in it as something he or she wishes to bring about, and seeks by his or her action to make it succeed.

The following offenses are prohibited:

(1) Physical abuse. Actual, attempted, or threatened physical abuse of any person or conduct which threatens or endangers the health and safety of any person or which intentionally causes a reasonable apprehension of harm to any person.

(2) Destroying or damaging property. Destroying, defacing, or damaging school property or the property of others on school premises or at school-sponsored activities.

(3) Sexual harassment. Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where such behavior offends the recipient, causes discomfort or humiliation, or interferes with job or school performance.

(4) Disruption. Disorderly or abusive behavior which interferes with the rights of others, school, or school-sponsored activities; obstructing the free movement of people or

vehicles; inciting others to engage in prohibited conduct; or threatening disruption.

(5) Disturbing the peace. Creating noise in such a way as to interfere with school functions.

(6) Insubordination. Refusal or failure to follow instructions and proper orders of school officials, while on school premises or at school-sponsored activities, thereby infringing upon the rights and privileges of others, and/or refusal to desist from prohibited conduct.

(7) False alarms. Falsely setting off, improper use or disabling of any safety equipment, alarm, exit sign, or other device.

(8) False information. Filing a formal complaint which falsely accuses another with violation of this chapter, falsifying information to school officials, or forging or tendering any forged instrument to the school.

(9) Theft. Actual or attempted theft of property or services belonging to the school, any student, school employee or school visitor, including knowing possession of stolen property.

(10) Conversion. Unauthorized use of school equipment or services.

(11) Academic dishonesty. All forms of cheating, plagiarism and fabrication, including submitting any work product that the student misrepresents as his/her work product for the purpose of fulfilling any assignment or task required as part of the student's course of studies.

(12) Unlawful entry and trespassing. Entering and/or remaining in any administrative or other employee office or any locked or otherwise closed school facility, in any manner, at any time, without permission.

(13) Smoking. The Washington state school for the blind supports the goal of the governor's nonsmoking policy and the policy of the public schools mandating a total ban on the use of all tobacco products by September 1, 1991. Students are not allowed to smoke or use tobacco products on school premises or during school-sponsored activities.

(14) Alcohol. Use, possession, distribution of, or visible intoxication from alcoholic beverages is prohibited on school property or at school-sponsored activities.

(15) Drugs and controlled substances. Use, possession, distribution, or being visibly under the influence of any controlled substance or illegal drug as defined in WAC 72-120-300, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist.

(16) Weapons and dangerous chemicals. Unauthorized use, possession or storage of any weapon, explosives, dangerous chemicals, substances or instruments, which may be used to inflict bodily harm on another or damage upon school property or personal property.

(17) Other conduct. Any other conduct or action, the terms and violations of which are published annually in the student/parent handbook, in which the school can demonstrate a clear and distinct interest and which substantially threatens the educational process or other legitimate function of the school or the health or safety of any member of the school community is prohibited.

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-100, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022. 90-16-005, § 72-120-100, filed 7/19/90, effective 8/19/90.]

## DISCIPLINE

**WAC 72-120-200 Policy.** The Washington state school for the blind has established standards of conduct for students and the disciplinary process to protect members of the school community, maintain and advance its educational mission, and provide for the orderly conduct of the school's activities. Disciplinary procedures used by the school are considered part of its educational process. School policy and rules of conduct shall be applicable to all students in any program or activity conducted by the Washington state school for the blind. In every case of misconduct, the nature and circumstances of the violation will be considered and appropriate disciplinary actions will be administered on a less restrictive alternative basis, including but not limited to time out, detention, behavior contracts, restriction of privileges, reprimand, restitution, or suspension.

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-200, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022. 90-16-005, § 72-120-200, filed 7/19/90, effective 8/19/90.]

**WAC 72-120-205 Limitations.** (1) No form of disciplinary action shall be enforced in such a manner as to prevent a student from accomplishing specific academic grade, subject, or graduation requirement: Provided, That a student's academic grade or credit in a particular subject or course may be adversely affected as a result of excessive tardiness or absences.

(2) Corporal punishment as defined by the board of education in WAC 180-40-235 and the unreasonable use of force on children described in RCW 9A.16.100 as now or hereafter amended, is prohibited.

[Statutory Authority: RCW 72.40.022. 90-16-005, § 72-120-205, filed 7/19/90, effective 8/19/90.]

**WAC 72-120-210 Emergency removal from class or activity.** (1) Notwithstanding any other provision of this chapter, a student may be removed immediately from a class, subject, or activity by a certificated teacher or an administrator and sent to the principal or a designated school authority: Provided, That the teacher or administrator has good and sufficient reason to believe that the student's presence poses an immediate and continuing danger to the student, other students, or school personnel, or an immediate and continuing threat of substantial disruption of the class, subject, activity, or educational process of the school. The removal from classes, subjects, or activities shall continue only until:

(a) The danger or threat ceases; or

(b) The principal or designated school authority acts to impose disciplinary action pursuant to this chapter.

(2) The principal or school authority shall meet with the student as soon as reasonably possible following the student's removal and take appropriate disciplinary action. In no case shall the student's opportunity for such meeting be delayed beyond the commencement of the next school day. Prior to or at the time any such student is returned to the class(es), subject(s), or activity(ies), the principal or school authority shall notify the teacher or administrator who removed the student therefrom of the action which has been taken.

[Statutory Authority: RCW 72.40.022. 90-16-005, § 72-120-210, filed 7/19/90, effective 8/19/90.]

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**WAC 72-120-220 Short-term suspension.** (1) As used in this chapter "short-term suspension" shall mean a denial of attendance at any class or admission to or entry upon school property for up to and not exceeding ten consecutive school days.

(2) Short-term suspensions may be imposed upon a student for violation(s) of rules adopted in WAC 72-120-100.

(3) A student may be suspended for a short term after another less restrictive form of disciplinary action, reasonably calculated to modify his or her conduct, has been imposed as a consequence of misconduct of the same nature: Provided, That the school may resort to immediate short-term suspension in cases involving exceptional misconduct notwithstanding the fact that prior alternative corrective action or discipline has not been imposed. For the purposes of this section, "exceptional misconduct" means misconduct, other than absenteeism, of such frequent occurrence, notwithstanding prior attempts by the school to control such misconduct through the use of other forms of disciplinary action, and/or so serious in nature and/or so serious in terms of disruptive effect upon the operation of the school as to warrant immediate resort to short-term suspension.

(4) Any student subject to short-term suspension shall be provided the opportunity upon return to make up assignments and tests missed by reason of the suspension if such assignments or tests have a substantial effect upon the semester grade.

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-220, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022. 90-16-005, § 72-120-220, filed 7/19/90, effective 8/19/90.]

**WAC 72-120-225 Short-term suspension—Notice and conference—Grievance procedure.** (1) Prior to the short-term suspension of any student pursuant to WAC 72-120-220, a conference shall be conducted with the student as follows:

(a) An oral or written notice of the alleged misconduct and violation(s) of school rules shall be provided to the student;

(b) An oral or written explanation of the evidence in support of the allegation(s) shall be provided to the student;

(c) An oral or written explanation of the corrective action or discipline which may be imposed shall be provided to the student; and

(d) The student shall have the opportunity to present his/her explanation.

(2) In the event a suspension is to exceed one calendar day the parent(s) or guardian(s) of the student shall be notified of the reason for the student's suspension and the duration of the suspension orally and/or by letter deposited in the United States mail as soon as reasonably possible. The notice shall also inform the parent or guardian of the right to an informal conference pursuant to subsection (3) of this section and that the suspension may possibly be reduced as a result of such conference.

(3) Any student, parent, or guardian aggrieved by the imposition of a short-term suspension shall have the right to an informal conference with the principal or his or her designee for the purpose of resolving the grievance. The school personnel member whose action is being grieved shall be notified of the initiation of a grievance as soon as reasonably

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possible. During the conference, the student, parent, or guardian shall be subject to questioning by the principal or his or her designee and shall be entitled to question school personnel involved in the matter being grieved. If the grievance is not resolved, the student, parent, or guardian, upon two school business days' prior notice, shall have the right to present a written and/or oral grievance to the superintendent who shall notify the student, parent, or guardian of his or her response to the grievance within ten school business days after receipt of the written or oral grievance. The disciplinary action may continue notwithstanding the implementation of the grievance procedure set forth in this section.

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-225, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022. 90-16-005, § 72-120-225, filed 7/19/90, effective 8/19/90.]

**WAC 72-120-230 Long-term suspension.** (1) As used in this chapter "long-term suspension" shall mean a denial of attendance at any class or admission to or entry upon school property in excess of ten consecutive school days.

(2) Long-term suspensions may be imposed on a student for violation(s) of rules adopted in WAC 72-120-100.

(3) When a student engages in conduct that would warrant long-term suspension, requirements and procedures for disciplinary exclusion, found at WAC 72-120-300 through 72-120-313 shall be followed.

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-230, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022. 90-16-005, § 72-120-230, filed 7/19/90, effective 8/19/90.]

**WAC 72-120-234 Long-term suspension—Misconduct not a manifestation of disability—Notice.** (1) Following a determination that behavior which warrants a long-term suspension was not a manifestation of the student's disability, a student may be suspended for a long term after another less restrictive form of disciplinary action, reasonably calculated to modify his or her conduct, has been imposed as a consequence of misconduct of the same nature: Provided, That the school may resort to immediate long-term suspension in cases involving exceptional misconduct notwithstanding the fact that prior alternative corrective action or discipline has not been imposed. For the purposes of this section, "exceptional misconduct" means misconduct, other than absenteeism, of such frequent occurrence, notwithstanding prior attempt by the school to control such misconduct through the use of other forms of disciplinary action, and/or so serious in nature and/or so serious in terms of the disruptive effect upon the operation of the school as to warrant immediate resort to long-term suspension.

(2) Prior to the long-term suspension of any student for misconduct which was not a manifestation of the student's disability, written notice of an opportunity for a hearing shall be delivered in person or by certified mail to the student and parent(s) or guardian(s). The notice shall:

(a) Be provided in the predominant language of a student and/or a parent(s) or guardian(s) who predominantly speak a language other than English, to the extent feasible;

(b) Specify the alleged misconduct and the rule(s) alleged to have been violated;

(c) Set forth the disciplinary action proposed;

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(d) Set forth the right of the student and/or his or her parent(s) or guardian(s) to a hearing for the purpose of contesting the allegation(s);

(e) State that a written request for a hearing must be received by the school employee designated, or by his or her office within three school business days after receipt of the notice of opportunity for a hearing; and

(f) State that if such a request is not received within the prescribed period of time, then the right to a hearing may be deemed to have been waived and the proposed long-term suspension may be imposed. A schedule of school business days should be included with the notice.

(3) If a request for a hearing is not received within the required three school business day period, the school may deem the student and his or her parent(s) or guardian(s) to have waived the right to a hearing and the proposed long-term suspension may be imposed.

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-234, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022. 90-16-005, § 72-120-234, filed 7/19/90, effective 8/19/90.]

**WAC 72-120-236 Long-term suspension—Misconduct not a manifestation of disability—Hearing.** (1) If a request for a hearing is received pursuant to WAC 72-120-234 within the required time period, the superintendent or his or her designee shall schedule a hearing to commence within seven school days after the date upon which the request for a hearing was received according to the requirements in chapter 10-08 WAC adopted in WAC 72-108-010.

(2) The hearing shall be a brief adjudicative proceeding in accordance with WAC 72-108-100. The hearing process described in WAC 180-40-270, applicable to long-term suspensions involving students without disabilities, should apply as guidelines for the conduct of the brief adjudicative proceeding.

(3) During the pendency of any administrative or judicial proceeding involving suspension under this section, unless the school and the parent(s) of the student (or the eligible student as defined in WAC 72-171-010(1)) agree otherwise, the student shall remain in the educational placement he or she was in when the request for hearing was made.

(4) Nothing in this section shall be construed to limit the superintendent's ability to seek injunctive relief in appropriate cases from a court of competent jurisdiction.

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-236, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022. 90-16-005, § 72-120-236, filed 7/19/90, effective 8/19/90.]

## DISCIPLINARY EXCLUSION

**WAC 72-120-300 Disciplinary exclusion—Definitions.** The following definitions apply to this section only:

(1) "Controlled substance" means a drug or other substance identified under Schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. Sec. 812(c)).

(2) "Illegal drug" means a controlled substance, but does not include, a substance that is legally possessed or used under the supervision of a licensed health care professional or that is legally possessed or used under any other authority

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under the Controlled Substances Act or under any other provision of federal law.

(3) "Weapon" has the meaning given the term "dangerous weapon" under section 930 (g)(2) of Title 18 U.S.C.: "Dangerous weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than two and one-half inches in length.

(4) "Substantial evidence" means beyond a preponderance of the evidence.

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-300, filed 7/20/01, effective 8/20/01.]

**WAC 72-120-301 Change of placement for disciplinary removals.** For purposes of removals of a student from the student's current educational placement under this section, a change of placement occurs if:

(1) The removal is for more than ten consecutive school days; or

(2) The student is subjected to a series of removals that constitute a pattern because they cumulate to more than ten school days in a school year, and because of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-301, filed 7/20/01, effective 8/20/01.]

**WAC 72-120-302 Removals—Ten school days or less.** School personnel may order the removal of a student from the student's current placement for not more than ten consecutive school days for any violation of school rules, including the student conduct code, and additional removals of not more than ten consecutive school days in that same school year for separate incidents of misconduct as long as those removals do not constitute a change of placement under WAC 72-120-202.

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-302, filed 7/20/01, effective 8/20/01.]

**WAC 72-120-303 Required services.** (1) In the case of a student who has been removed from his or her current placement for more than ten cumulative school days in the same school year, the school, for the remainder of the removals, shall provide services to the extent necessary to enable the student to appropriately progress in the general curriculum and advance toward achieving the goals set out in the student's individualized education program.

(2) When there is no change of placement, school personnel, in consultation with the student's special education teacher, determine the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP.

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-303, filed 7/20/01, effective 8/20/01.]

**WAC 72-120-304 Change of placement—Removals for weapons or drugs.** School personnel may order a change

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in placement of a student to an appropriate interim alternative educational setting for not more than forty-five calendar days, if the student:

(1) Possesses a weapon, or carries a weapon to school or to a school function under the jurisdiction of the state school for the blind; or

(2) Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function under the jurisdiction of the state school for the blind.

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-304, filed 7/20/01, effective 8/20/01.]

**WAC 72-120-305 Functional behavioral assessment and intervention plan.** Within ten business days after first removing a student for more than ten consecutive school days in a school year or placing the student in an interim alternative educational setting, the following actions shall be taken by the school:

(1) If the school did not conduct a functional behavioral assessment and implement a behavioral intervention plan for the student before the behavior that resulted in the removal occurred, an individualized education program meeting will be convened to develop an assessment plan.

(2) If the student already has a behavioral intervention plan, the individualized education program team shall meet to review the plan and its implementation to determine whether modifications are necessary.

(3) As soon as practicable after developing the assessment plan described in subsection (1) of this section, and completing the assessments required by the plan, an IEP meeting will be convened to develop appropriate behavioral interventions to address the behavior that resulted in removal and to implement those interventions.

(4) If a student has a behavioral intervention plan and has been removed from the current educational placement for more than ten cumulative school days in a school year, and is subsequently subjected to a removal that does not constitute a change of placement under WAC 72-120-301, the IEP team may review the behavioral intervention plan and its implementation to determine if modifications are necessary.

(5) If one or more of the IEP team members believe that modifications to an existing behavioral intervention plan are needed, the team shall meet to modify the plan and its implementation, to the extent the team determines necessary.

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-305, filed 7/20/01, effective 8/20/01.]

**WAC 72-120-306 Dangerous behavior—Authority of hearing officer.** A hearing officer, described in WAC 392-172-352 (adopted by reference in WAC 72-171-601), may order a change in the placement of a student to an appropriate interim alternative educational setting for not more than forty-five days if the hearing officer, in an expedited due process hearing:

(1) Determines that the school has demonstrated by substantial evidence that maintaining the current placement of the student is substantially likely to result in injury to the student or to others;

(2)(a) Considers the appropriateness of the student's current placement;

(b) Including, when necessary, the requirements and limitations imposed by RCW 72.40.040(4), 72.40.050(2), 72.40.250(2), and 72.40.270;

(3) Considers whether the school has made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services; and

(4) Determines that the interim alternative educational setting that is proposed by school personnel who have consulted with the student's special education teacher meets the requirements of WAC 72-120-307.

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-306, filed 7/20/01, effective 8/20/01.]

**WAC 72-120-307 Determination of interim alternative educational setting.** The individualized education program team shall determine an interim alternative educational setting. Any interim alternative educational setting in which a student is placed under WAC 72-120-304 and 72-120-306 shall:

(1) Be selected so as to enable the student to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the student's current individualized education program, that will enable the student to meet the goals set out in that individualized education program; and

(2) Include services and modifications designed to address and prevent the recurrence of the behavior described in WAC 72-120-304 or 72-120-306.

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-307, filed 7/20/01, effective 8/20/01.]

**WAC 72-120-308 Manifestation determination review requirements.** If school personnel or a hearing officer contemplates action that involves removing a student for behavior described in WAC 72-120-304 or behavior that is substantially likely to result in injury to the student or to others, or other behavior that violates any rule or code of conduct which results in a change of placement under WAC 72-120-301, the school shall:

(1) Not later than the date on which the decision to take action is made, notify the parents of the school's decision and provide the procedural safeguards notice described under WAC 392-172-307; and

(2) Immediately, if possible, but in no case later than ten school days after the date on which the decision to remove the student is made, conduct a review of the relationship between the student's disability and the behavior subject to the disciplinary action.

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-308, filed 7/20/01, effective 8/20/01.]

**WAC 72-120-309 Procedures for conducting a manifestation determination.** The individualized education program team and other qualified personnel in a meeting shall conduct a manifestation determination review. In carrying out the review, the team may determine that the behavior of the student was not a manifestation of the student's disability only if the team:

(1) First considers, in terms of the behavior subject to disciplinary action, all relevant information, including:

(a) Evaluation and diagnostic results, including the results of other relevant information supplied by the parents of the student;

(b) Observations of the student; and

(c) The student's individualized education program and placement.

(2) Then determines that:

(a) In relationship to the behavior subject to disciplinary action, the student's individualized education program and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the student's individualized education program and placement;

(b) The student's disability did not impair the ability of the student to understand the impact and consequences of the behavior subject to disciplinary action; and

(c) The student's disability did not impair the ability of the student to control the behavior subject to disciplinary action.

(3) If the team determines that any of the above standards in this section were not met, the behavior must be considered a manifestation of the student's disability.

(4) The manifestation determination review described in this section may be conducted at the same individualized education program meeting that is convened to address a functional behavioral assessment and behavioral intervention plan.

(5) If the review identifies deficiencies in the student's IEP or placement or in their implementation, the school will take immediate steps to remedy those deficiencies.

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-309, filed 7/20/01, effective 8/20/01.]

**WAC 72-120-310 Determination that behavior was not manifestation of disability.** (1) If the results of the manifestation determination review indicate that the behavior of the student was not a manifestation of the student's disability, the student may be subject to the same disciplinary measures applicable to students without disabilities, including long-term suspensions and expulsions, except that a free appropriate public education shall continue to be made available to those students consistent with 34 CFR Sec. 300.121(d).

(2) The student's IEP team determines the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP if the student is removed because of behavior that has been determined not to be a manifestation of the student's disability.

(3) If a parent requests a hearing to challenge the determination that the behavior of the student was not a manifestation of the student's disability, then the student shall remain in the current educational placement or interim alternative educational setting consistent with WAC 72-120-312, whichever applies.

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-310, filed 7/20/01, effective 8/20/01.]

**WAC 72-120-311 Expedited due process hearings.**

(1) "Expedited due process hearing" means a hearing that is conducted by a due process hearing officer, in accordance with WAC 72-171-601 (impartial due process hearing rights) and this section, and may be requested in any of the following situations:

(a) The parent disagrees with a determination that the student's behavior was not a manifestation of the student's disability.

(b) The parent disagrees with the school's decision regarding the student's disciplinary change of placement under WAC 72-120-304.

(c) The school maintains that it is dangerous for the student to return to the current placement (placement prior to removal to the interim alternative educational setting) after the expiration of the student's placement in an interim alternative educational setting or to be in the current placement (placement prior to removal to the interim alternative educational setting) during the pendency of the due process proceedings.

(2) Pursuant to WAC 392-172-350 (adopted by reference in WAC 72-171-601) the office of the superintendent of public instruction shall arrange for an expedited hearing in any case described in subsection (1) of this section if requested by the parent.

(3) In reviewing a decision with respect to the manifestation determination, the hearing officer shall determine whether the school has demonstrated that the student's behavior was not a manifestation of the student's disability consistent with the requirements of WAC 72-120-309.

(4) In reviewing a decision to place the student in an interim alternative educational setting, the hearing officer shall apply the standards under WAC 72-120-306.

(5) An expedited due process hearing shall:

(a) Result in a written decision being mailed to the parties within forty-five days of the office of the superintendent of public instruction's receipt of the request for the hearing without exceptions or extensions. The timeline established in this subsection shall be the same for hearings requested by parents or the school;

(b) Meet the requirements of WAC 392-172-354 (adopted by reference in WAC 72-171-601) except that the time periods identified for the disclosure of records and evaluations for purposes of expedited due process hearings are not less than two business days prior to the hearing; and

(c) Be conducted by a due process hearing officer who satisfies the impartiality requirements of WAC 392-172-352 (adopted by reference in WAC 72-171-601).

(6) The decisions on expedited due process hearings are appealable under the state's due process appeal procedures (see WAC 72-171-601 and 392-172-360).

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-311, filed 7/20/01, effective 8/20/01.]

**WAC 72-120-312 Placement during appeals.** (1) If a parent requests a hearing regarding a disciplinary action described in WAC 72-120-304 or 72-120-306 to challenge the interim alternative educational setting or the manifestation determination, the student must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the forty-five day

time period provided for, whichever occurs first, unless the parent and the school agree otherwise.

(2) If a student is placed in an interim alternative educational setting pursuant to this section and school personnel propose to change the student's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed change in placement the student must remain in the current placement (the student's placement prior to the interim alternative educational setting), except as provided for below.

(3) In determining whether the student may be placed in the alternative educational setting or in another appropriate placement ordered by the hearing officer, the hearing officer shall apply the standards under WAC 72-120-306.

(4) A placement ordered pursuant to this section may not be longer than forty-five days.

(5) The procedure in this section may be repeated as necessary.

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-312, filed 7/20/01, effective 8/20/01.]

**WAC 72-120-313 Referral to and action by law enforcement and judicial authorities.** (1) Nothing in Part B of the Individuals with Disabilities Education Act, or this chapter prohibits the Washington state school for the blind from reporting a crime committed by a student to appropriate authorities, or prevents state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a student.

(2) When reporting a crime committed by a student, the school shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom it reports the crime.

(3) When reporting a crime under this section, the school may transmit copies of the student's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-313, filed 7/20/01, effective 8/20/01.]

**WAC 72-120-314 Aversive interventions.** WAC 392-172-388 through 392-172-396 are adopted by reference.

[Statutory Authority: RCW 72.4.011 [72.40.022]. 01-16-023, § 72-120-314, filed 7/20/01, effective 8/20/01.]

## Chapter 72-130 WAC NONRESIDENT TUITION

### WAC

72-130-010	Purpose.
72-130-020	Definitions.
72-130-030	Admission of nonresident students.
72-130-035	Contents of admission agreements.
72-130-040	Challenges to residency determinations.
72-130-050	Nonresident tuition.

**WAC 72-130-010 Purpose.** The purpose of this chapter is to implement RCW 72.40.050 by establishing a reasonable and uniform tuition charge for nonresident students whose



attendance at the Washington state school for the blind is deemed appropriate by the school superintendent.

[Statutory Authority: RCW 72.40.022. 90-16-006, § 72-130-010, filed 7/19/90, effective 8/19/90.]

**WAC 72-130-020 Definitions.** As used in this chapter, the term:

(1) "Residence" shall mean the physical location of a student's principal abode—i.e., the home, house, apartment, facility, structure, etc., within which the student lives the majority of the time. The mailing address of the student—e.g., the parents' address or post office box—may be different than the student's principal abode. The lack of a mailing address does not preclude residency under this section.

(2) "Nonresident student" shall mean a student, otherwise eligible for enrollment, who is between the ages of three and twenty-one, and whose residence is located outside the state of Washington.

[Statutory Authority: RCW 72.40.022. 90-16-006, § 72-130-020, filed 7/19/90, effective 8/19/90.]

**WAC 72-130-030 Admission of nonresident students.**

(1) The school shall consider requests for the admission of nonresident students on the basis of the order in which such requests are made and without preference; provided however, that a conclusive preference in favor of admitting resident students shall be maintained.

(2) A nonresident student may be admitted only pursuant to a written agreement between the school superintendent and the student's parent(s) or guardian(s) (or, the nonresident student if such student is eighteen years or older).

[Statutory Authority: RCW 72.40.022. 90-16-006, § 72-130-030, filed 7/19/90, effective 8/19/90.]

**WAC 72-130-035 Contents of admission agreements.**

Agreements required by WAC 72-130-030 shall set forth:

(1) The name, age, and grade level of attendance of the nonresident student;

(2) The duration of the agreement;

(3) A finding that the nonresident student satisfies the admissions criteria set forth in WAC 72-171-150; and

(4) Such other terms and conditions as the parties deem advisable and as are consistent with this chapter.

[Statutory Authority: RCW 72.40.022. 90-16-006, § 72-130-035, filed 7/19/90, effective 8/19/90.]

**WAC 72-130-040 Challenges to residency determinations.** (1) A parent, guardian, or adult student who wishes to challenge a residency determination shall utilize the brief adjudicative procedures set forth in RCW 34.05.482 through 34.05.494, as adopted in WAC 72-108-100.

(2) Requests for brief adjudicative procedures shall be written, signed, and directed to the superintendent within twenty days from the date that the original determination was rendered.

[Statutory Authority: RCW 72.40.022. 90-16-006, § 72-130-040, filed 7/19/90, effective 8/19/90.]

**WAC 72-130-050 Nonresident tuition.** (1) Uniform rate. The tuition for nonresident students who are enrolled

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pursuant to the provisions of this chapter shall be assessed at a uniform rate, consistent with the annual per capita cost of maintaining and educating a student.

(2) Tuition reduction. Any such tuition charge, however, may be ratably reduced in the event the nonresident student is enrolled part time and/or for less than a full school year.

(3) Annual adjustments. Nonresident tuition and fees shall be adjusted annually to reflect the actual per capita cost of education.

(4) Billing. Tuition for nonresident students shall be assessed on a quarterly basis. Quarterly payments shall be due in full prior to the first day of the quarter in which the nonresident student seeks to enroll.

[Statutory Authority: RCW 72.40.022. 90-16-006, § 72-130-050, filed 7/19/90, effective 8/19/90.]

## Chapter 72-140 WAC

### USE OF SCHOOL FACILITIES

#### WAC

72-140-010	Policy on public use of school facilities.
72-140-020	Application for use of school facilities.
72-140-030	Allocation of space.
72-140-040	Basis of fee assessment.
72-140-050	General policies limiting use.
72-140-060	Specific limitations on use.
72-140-070	Supervision.
72-140-080	Prohibited conduct at school facilities.

**WAC 72-140-010 Policy on public use of school facilities.** Because the Washington state school for the blind is an educational institution provided and maintained by the people of the state, its campus, buildings, properties, and facilities shall be reserved at all times for those activities which are either directly related to its educational mission or are justified on the basis of their contributions to the cultural, social, or economic development of the state and its visually impaired citizens. The school is not obligated to make its public facilities available to the community for private purposes.

[Statutory Authority: RCW 72.40.022. 90-16-007, § 72-140-010, filed 7/19/90, effective 8/19/90.]

**WAC 72-140-020 Application for use of school facilities.** (1) Applications for use of school facilities should be made on the Facilities Request Form, available from the administrative office of the school, 2214 East 13th Street, Vancouver, Washington 98661.

(2) Reasonable conditions may be imposed upon the applicant to regulate the timeliness of the request, to determine the appropriateness of intended use of the space assigned, and to ensure proper maintenance of the facilities. A detailed listing of such conditions is available from the school's administrative office.

(3) The school may restrict an individual's or a group's use of school facilities if that person or group has, in the past, physically abused school facilities. Charges may be imposed for damage or for any unusual costs related to the use of facilities.

[Statutory Authority: RCW 72.40.022. 90-16-007, § 72-140-020, filed 7/19/90, effective 8/19/90.]

**WAC 72-140-030 Allocation of space.** Allocation of space shall be made in accordance with school regulations and on the basis of time, space, priority of request, and the demonstrated needs of the applicant. When allocating the use of school facilities, top priority will always be given to activities directly related to the school's mission. No arrangement shall be made that may interfere with, or operate to the detriment of, the school's own educational, research, residential, or public service programs.

[Statutory Authority: RCW 72.40.022. 90-16-007, § 72-140-030, filed 7/19/90, effective 8/19/90.]

**WAC 72-140-040 Basis of fee assessment.** (1) The school has established a three-tiered fee schedule for the use of school facilities. The schedule reflects the school's cost of operation and its evaluation of the intended purpose of the use. Groups closely affiliated with the school's mission, such as other state agencies or groups specifically promoting the education of the visually impaired, may be allowed access to school facilities free of charge. However, a small rental fee may be imposed if special operating costs are necessarily incurred. Other community groups will be charged according to the schedule. A current copy of the fee schedule is available from the school's administrative office.

(2) The school neither intends nor desires to compete with private enterprise in making its facilities available to the public. The school encourages the community to patronize local businesses whose privately operated facilities are well qualified to meet community needs.

[Statutory Authority: RCW 72.40.022. 90-16-007, § 72-140-040, filed 7/19/90, effective 8/19/90.]

**WAC 72-140-050 General policies limiting use.** (1) School facilities may not be used for purposes of political campaigning by or for candidates who have filed for public office except for student-sponsored activities or forums.

(2) Religious groups shall not, under any circumstances, use the facilities as a permanent meeting place. Use shall be intermittent only.

(3) The school reserves the right to prohibit the use of school facilities by groups which restrict membership or participation in a manner inconsistent with the school's commitment to nondiscrimination as set forth in its written policies and commitments.

(4) Activities of a political or commercial nature will not be approved if they involve the use of promotional signs or posters on buildings, trees, walls, or bulletin boards, or the distribution of samples outside the rooms or facilities to which access has been granted.

(5) These general policies shall apply to recognized student groups using school facilities.

[Statutory Authority: RCW 72.40.022. 90-16-007, § 72-140-050, filed 7/19/90, effective 8/19/90.]

**WAC 72-140-060 Specific limitations on use.** (1) The permissible use of facilities is limited to the purpose stated in the application and approved by the superintendent.

(2) Only that portion of the building listed and approved on the application shall be available for use by the organization.

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(3) The facility shall be vacated by the time listed on the facility usage form.

(4) The user group shall abide by these and all other limitations established by the superintendent and set forth in the superintendent's policy on use of school facilities. A copy of such policy is available at the administrative office of the school.

[Statutory Authority: RCW 72.40.022. 90-16-007, § 72-140-060, filed 7/19/90, effective 8/19/90.]

**WAC 72-140-070 Supervision.** (1) Adult supervisors of student organizations using school facilities shall remain with their groups during usage, and shall ensure compliance with school regulations governing the use of facilities.

(2) A designated school employee or representative will be on site during usage, and will be compensated by the using organization when the event occurs outside of normal scheduled coverage.

[Statutory Authority: RCW 72.40.022. 90-16-007, § 72-140-070, filed 7/19/90, effective 8/19/90.]

**WAC 72-140-080 Prohibited conduct at school facilities.** (1) State law relative to public institutions governs the use or possession of intoxicants on campus or at school functions. The use or possession of unlawful drugs or narcotics, not medically prescribed, on school property or at school functions, is prohibited. Students obviously under the influence of intoxicants, unlawful drugs, or narcotics while in school facilities shall be subject to disciplinary action.

(2) The use of tobacco is restricted in accordance with published policy.

(3) Destruction of property is also prohibited by state law in reference to public institutions.

(4) No person or group may use or enter onto school facilities having in their possession firearms or other weapons, even if licensed to do so, except duly appointed and commissioned law enforcement officers.

[Statutory Authority: RCW 72.40.022. 90-16-007, § 72-140-080, filed 7/19/90, effective 8/19/90.]

## Chapter 72-171 WAC SPECIAL EDUCATION PROGRAMS

### WAC

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72-171-100 Initial assessment. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-100, filed 7/19/90, effective 8/19/90.] Repealed by 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.

72-171-130 Summary analysis of assessment data. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-130, filed 7/19/90, effective 8/19/90.] Repealed by 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.

72-171-200 Definition. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-200, filed 7/19/90, effective 8/19/90.] Repealed by 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.

72-171-400 Annual review of placement and student progress—Program evaluation. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-400, filed 7/19/90, effective 8/19/90.] Repealed by 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.

72-171-420 Reassessment purposes. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-420, filed 7/19/90, effective 8/19/90.] Repealed by 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.

72-171-430 Reassessment notice. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-430, filed 7/19/90, effective 8/19/90.] Repealed by 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.

72-171-600 Right to initiate. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-600, filed 7/19/90, effective 8/19/90.] Repealed by 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.

72-171-610 Hearing rights. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-610, filed 7/19/90, effective 8/19/90.] Repealed by 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.

72-171-620 Timeline for decision. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-620, filed 7/19/90, effective 8/19/90.] Repealed by 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.

72-171-630 Petition for review. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-630, filed 7/19/90, effective 8/19/90.] Repealed by 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.

72-171-640 Student's status during proceedings. [Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-640, filed 7/19/90, effective 8/19/90.] Repealed by 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.

72-171-700 Administration of medication. [Statutory Authority: RCW 72.40.022. 90-23-054, § 72-171-700, filed 11/19/90, effective 12/20/90.] Repealed by 01-16-022, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022.

**WAC 72-171-001 Purposes.** The purposes of this chapter are:

(1) To implement chapter 72.40 RCW in a manner that is compatible with chapter 28A.155 RCW and in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.;

(2) To meet the obligations of additional federal and state civil rights laws (e.g. 29 U.S.C. Sec. 794, 42 U.S.C. Sec. 12132, RCW 49.60.030) that apply to students who have a disability regardless of the student's eligibility for special education and related services.

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-001, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-001, filed 7/19/90, effective 8/19/90.]

#### DEFINITIONS OF GENERAL APPLICATION

**WAC 72-171-010 Definitions.** The definitions set forth in WAC 392-172-035, 392-172-040, 392-172-045, 392-172-055, 392-172-065, 392-172-070, 392-172-073, and 392-172-075 are hereby incorporated by reference into this chapter and should be referred to if necessary. The Washington state school for the blind, a "public agency" as defined in WAC 392-172-035 (6)(c), is a "state-operated program."

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-010, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-010, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-015 Definition and eligibility criteria for visually handicapped.** The definition and eligibility criteria in WAC 392-172-142 are adopted by reference.

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-015, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-015, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-016 Definition and eligibility criteria for deaf-blind.** The definition and eligibility criteria in WAC 392-172-144 are adopted by reference.

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-016, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-016, filed 7/19/90, effective 8/19/90.]

#### ASSESSMENT AND PLACEMENT

**WAC 72-171-110 General areas of evaluation.** WAC 392-172-106 is adopted by reference.

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-110, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-110, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-120 Evaluation procedures.** The evaluation or reevaluation of any student shall be performed using

the procedures established in chapter 392-172 WAC except as specifically provided otherwise in this chapter.

Evaluations may include assessments to identify students who present a moderate or high risk of sexually aggressive behavior or who may be vulnerable to victimization by such students, as required by RCW 72.40.270. Evaluations will be conducted by a group of qualified professionals selected by the Washington school for the blind who are knowledgeable about the student, the suspected area of disability, and in cases where assessment is required by RCW 72.40.270, sexual abuse and assault.

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-120, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-120, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-131 Evaluation report and documentation of determination of eligibility.** WAC 392-172-10905 is adopted by reference.

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-131, filed 7/20/01, effective 8/20/01.]

**WAC 72-171-140 Independent educational evaluation.** WAC 392-172-150 is adopted by reference.

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-140, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-140, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-150 Admission and placement—Annual review.** (1) Upon a referral for admission and placement from a parent, legal guardian, emancipated minor, adult student, or local educational agency (LEA), a Washington state school for the blind admissions team will assess the appropriateness of placement of a visually impaired student residing in the state of Washington as provided for under this chapter.

(2) Applications for placement shall be in writing and shall include the reason for referral. Reasons for referral to the state school for the blind may include, but are not limited to: Vision specific services not readily available in the local school district, need for more intensive vision specific services, adaptive aids and appliances, greater array of vision support services, social skill development, leisure time skill development, and organization skill development.

(3) The LEA will be notified if the referral is from a parent and the student's records will be requested. The following records must be received prior to review by the school's admissions team: Complete application materials, most recent IEP, most recent three-year summary assessment or evaluation, psychological records, transcripts (for high school students), all records subject to disclosure under RCW 28A.225.330, including, but not limited to: History of disciplinary actions, criminal or violent behavior, or other behavior that indicates the student could be a threat to the safety of educational staff or other students.

(4) The admissions team shall review the records and if the information is complete, determine whether to proceed with or terminate the application.

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(5) Placement of a student at the state school for the blind shall be determined at a meeting conducted pursuant to WAC 72-171-210.

(6) The determination of the appropriate placement for a student shall be based upon:

(a) The student's individualized education program (IEP);

(b) The least restrictive environment requirements of WAC 392-172-172;

(c) The placement option(s) that provides a reasonably high probability of assisting the student to attain his or her annual goals;

(d) A consideration of any potential harmful effect on the student or on the quality of services which he or she needs; and

(e) The status of the student as an adjudicated sex offender classified as risk Level II or III in the state of Washington or the equivalent under the laws of the state in which the student resides.

(7) The decision on the educational placement shall be made by a group of persons, including the parents, the LEA, and other persons knowledgeable about the student, the evaluation data, and the placement options.

(8) Pursuant to RCW 72.40.040(4) and 72.40.050(2), admission and retention at the Washington state school for the blind may be denied for a student who is an adjudicated sex offender.

(9) The educational placement of each student shall be determined at least annually at a meeting conducted pursuant to WAC 72-171-210.

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-150, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-150, filed 7/19/90, effective 8/19/90.]

## INDIVIDUALIZED EDUCATION PROGRAMS

**WAC 72-171-210 IEP meetings.** WAC 392-172-156 is adopted by reference.

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-210, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-210, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-220 Participants in IEP meetings.** WAC 392-172-153 is adopted by reference.

Involvement and participation of the LEA at meetings in which a decision is to be made relating to the educational placement of the student is considered essential for meaningful discussion to occur. A representative of the student's LEA will be invited to meetings involving an IEP, transition services, or placement. The LEA representative should be an individual who is knowledgeable about the availability of resources of the LEA, authorized to allocate resources, or develop collaborative requests for funding to establish programs to meet the extraordinary program needs. If the LEA representative is unable to attend the meeting, Washington state school for the blind staff shall keep the representative informed of the meeting and obtain information that will assist in the provision of services.

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[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-220, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-220, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-230 Parent participation and involvement.** WAC 392-172-15700 and 392-172-15705 are adopted by reference.

Inclusion of an LEA representative in meetings with the parent(s) will be encouraged and appropriate notice to the parent(s) will be provided.

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-230, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-230, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-240 Individualized education program.** WAC 392-172-160 is adopted by reference.

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-240, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-240, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-242 Individualized education program—Implementation.** WAC 392-172-158 is adopted by reference.

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-242, filed 7/20/01, effective 8/20/01.]

**WAC 72-171-244 Individualized education program—Development, review, revision—Consideration of special factors.** WAC 392-172-159 is adopted by reference.

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-244, filed 7/20/01, effective 8/20/01.]

## ANNUAL REVIEW OR PLACEMENT AND STUDENT PROGRESS-REASSESSMENT

**WAC 72-171-410 Reevaluation.** WAC 392-172-182 through 392-172-190 are adopted by reference.

The student's LEA should continue to be involved in the planning for any student who is enrolled at the Washington state school for the blind, therefore, the group of individuals referred to in the reevaluation procedures adopted by reference should include a representative of the LEA.

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-410, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-410, filed 7/19/90, effective 8/19/90.]

## PROCEDURAL SAFEGUARDS

**WAC 72-171-500 When prior notice must be given.** WAC 392-172-302 is adopted by reference. Where the adopted rule refers to WAC 392-172-306, refer to WAC 72-171-510.

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-500, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-500, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-510 Contents of prior written notice.** WAC 392-172-306 is adopted by reference. Where the

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adopted rule refers to WAC 392-172-302, refer to WAC 72-171-500.

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-510, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1401, 1412-1417. 90-16-008, § 72-171-510, filed 7/19/90, effective 8/19/90.]

**WAC 72-171-512 Parent consent.** WAC 392-172-304 is adopted by reference. Where the adopted rule refers to WAC 392-172-185 (reevaluation), refer to WAC 72-171-120.

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-512, filed 7/20/01, effective 8/20/01.]

**WAC 72-171-514 Transfer of parental rights at age of majority.** WAC 392-172-309 is adopted by reference.

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-514, filed 7/20/01, effective 8/20/01.]

**WAC 72-171-550 Mediation.** In order to ensure that mediation is available to resolve disagreements concerning the identification, evaluation, educational placement of the student or provision of FAPE to the student, and disputes involving any matter where a hearing is requested under this chapter, WAC 392-172-310 through 392-172-317 are adopted and incorporated by reference.

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-550, filed 7/20/01, effective 8/20/01.]

## DUE PROCESS PROCEDURES

**WAC 72-171-601 Due process rights and procedures.** (1) Hearing rights and procedures shall be consistent with the requirements applicable to public agencies in WAC 392-172-350 through 392-172-364, which are adopted by reference.

(2) A parent, adult student, or the superintendent (or designee) may initiate a hearing in any of the matters and for the purposes stated in WAC 392-172-350(1).

(3) Where the adopted rule refers to WAC 392-172-150 (independent educational evaluation), refer to WAC 72-171-140.

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-601, filed 7/20/01, effective 8/20/01.]

**WAC 72-171-605 Request for hearing, notice by parent.** In addition to the information required in WAC 392-172-350(2), the parent, adult student, or the attorney representing the student must provide notice (which must remain confidential) to the Washington state school for the blind in a request for a hearing to the office of the superintendent of public instruction. The notice must include:

- (1) The name of the student;
- (2) The address of the residence of the student;
- (3) The name of the school the student is attending;
- (4) A description of the nature of the problem of the student relating to the proposed initiation or change, including facts relating to the problem; and
- (5) A proposed resolution of the problem to the extent known and available to the parents at the time.

[Statutory Authority: RCW 72.40.022. 01-16-022, § 72-171-605, filed 7/20/01, effective 8/20/01.]

**WAC 72-171-650 Surrogate parents.** WAC 392-172-308 is adopted by reference. The definition of "parent" in WAC 392-172-035(5) is adopted by reference in WAC 72-171-010.

[Statutory Authority: RCW 72.40.022, 01-16-022, § 72-171-650, filed 7/20/01, effective 8/20/01; 90-23-055, § 72-171-650, filed 11/19/90, effective 12/20/90.]

## MISCELLANEOUS PROGRAM REQUIREMENTS

**WAC 72-171-710 Aversive interventions.** WAC 392-172-388 through 392-172-396 are adopted by reference.

[Statutory Authority: RCW 72.40.022, 01-16-022, § 72-171-710, filed 7/20/01, effective 8/20/01.]

## Chapter 72-276 WAC PUBLIC RECORDS

### WAC

72-276-010	Purpose.
72-276-020	Definitions.
72-276-030	Description of central organization of Washington state school for the blind.
72-276-040	Operations and procedures.
72-276-050	Public records available.
72-276-060	Public records officer.
72-276-070	Office hours.
72-276-080	Requests for public records.
72-276-090	Copying.
72-276-100	Determination regarding exempt records.
72-276-110	Review of denials of public records requests.
72-276-120	Protection of public records.
72-276-130	Records index.
72-276-140	Adoption of form.

**WAC 72-276-010 Purpose.** The purpose of this chapter is to ensure that the school complies with the public records provisions of RCW 42.17.250 through 42.17.340.

[Statutory Authority: RCW 72.40.022 and 42.17.250, 90-16-009, § 72-276-010, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-020 Definitions.** (1) Public records. "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics: Provided, however, That the personal and other records cited in RCW 42.17.310 are exempt from definition of public record.

(2) Writing. "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds or symbols, combination thereof and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, disks, drums, and other documents.

(3) Washington state school for the blind. "Washington state school for the blind" is an agency organized by statute pursuant to RCW 72.40.010. Washington state school for the blind shall hereafter be referred to as the "school." Where appropriate, the term "school" also refers to staff and employees of the school.

[Statutory Authority: RCW 72.40.022 and 42.17.250, 90-16-009, § 72-276-020, filed 7/19/90, effective 8/19/90.]

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**WAC 72-276-030 Description of central organization of Washington state school for the blind.** (1) Washington state school for the blind is a state agency established and organized under the authority of chapter 72.40 RCW for the purpose of implementing the educational goals established by the legislature in RCW 72.40.010. The administrative office of the school is located in Vancouver, Washington. The Vancouver campus comprises the central headquarters for all operations of the school.

(2) The school operates under the supervision and control of the superintendent of the state school for the blind, appointed by the governor. The superintendent takes such actions and promulgates such rules, regulations, and policies in harmony with the rules and regulations established by the office of superintendent of public instruction and the United States Department of Education, as are necessary to the administration and operation of the school.

(3) A board of trustees serves as an advisory board to the superintendent and to the legislature. The board consists of a member from each of the states' congressional districts and ex officio members representing specific interests and constituents of the school. The responsibilities and functions of the board are provided in chapter 72.41 RCW.

(4) The school is comprised of three components. The education component is under the direction of the school principal. The residential life component is under the supervision of the director of residential life. The support services component is provided by consolidated services under an interagency agreement between the Washington state school for the blind and the Washington state school for the deaf. Medical services and outreach programs are under the direction of the superintendent. A detailed description of the administrative organization of the school is available at the administrative office of the school.

[Statutory Authority: RCW 72.40.022 and 42.17.250, 90-16-009, § 72-276-030, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-040 Operations and procedures.** Formal decision-making procedures are established by the superintendent through rules promulgated in accordance with the requirements of chapter 34.05 RCW, the Administrative Procedure Act (APA).

[Statutory Authority: RCW 72.40.022 and 42.17.250, 90-16-009, § 72-276-040, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-050 Public records available.** All public records of the school, as defined in this chapter, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310.

[Statutory Authority: RCW 72.40.022 and 42.17.250, 90-16-009, § 72-276-050, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-060 Public records officer.** The school's public records shall be in the charge of the public records officer designated by the superintendent of the school. The person so designated shall be located in the school administrative office. The public records officer shall be responsible for the following: Implementation of the school's rules and regulations regarding release of public records, coordinating the school employees in this regard, and generally ensuring

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compliance by school employees with the public records disclosure requirements in chapter 42.17 RCW.

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-060, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-070 Office hours.** Public records shall be available for inspection and copying during the customary office hours of the school. For purposes of this chapter, the customary office hours shall be from 8:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m., excluding legal holidays and holidays established by the school calendar.

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-070, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-080 Requests for public records.** In accordance with the requirements of RCW 42.17.290 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records are only obtainable by members of the public when those members of the public comply with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the school which shall be available at the school administrative office. The form shall be presented to the public records officer or, if the public records officer is not available, to any member of the school staff at the school administrative office during customary hours. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the public records officer, a reference to the requested record as it is described in such current index; and
- (e) If the requested matter is not identifiable by reference to the current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer, or person to whom the request is made, to assist the member of the public in succinctly identifying the public record requested.

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-080, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-090 Copying.** No fee shall be charged for the inspection of public records. The school may impose a reasonable charge for providing copies of public records and for the use by any person of agency equipment to copy public records; such charges shall not exceed the amount necessary to reimburse the school for its actual costs incident to such copying. No person shall be released a record so copied until and unless the person requesting the copied public record had tendered payment for such copying to the appropriate school official. All charges must be paid by money order, cashier's check, or cash in advance.

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-090, filed 7/19/90, effective 8/19/90.]

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**WAC 72-276-100 Determination regarding exempt records.** (1) The school reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 72-276-080 is exempt pursuant to the provisions set forth in RCW 42.17.310 and 42.17.315. Such determination may be made in consultation with the public records officer, the school superintendent, or an assistant attorney general assigned to the school.

(2) Pursuant to RCW 42.17.260, the school reserves the right to delete identifying details when it makes available or publishes any public record when there is reason to believe that disclosure of such details would be an unreasonable invasion of personal privacy; provided, however, in each case, the justification for deletion shall be explained fully in writing.

(3) Response to requests for a public record must be made promptly. For the purposes of this section, a prompt response occurs if the person requesting the public record is notified within two business days as to whether his request for a public record will be honored.

(4) All denials of request for public records must be accompanied by a written statement, signed by the public records officer or his/her designee, specifying the reason for the denial, a statement of the specific exemption authorizing the withholding of the record, and a brief explanation of how the exemption applies to the public record withheld.

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-100, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-110 Review of denials of public records requests.** (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement which constituted or accompanied the denial.

(2) The written request by a person demanding prompt review of a decision denying a public record shall be submitted to the superintendent, or his or her designee.

(3) Within two business days after receiving the written request by a person petitioning for a prompt review of a decision denying public record, the superintendent, or his or her designee, shall complete such review.

(4) During the course of the review, the superintendent or his or her designee, shall consider the obligations of the school fully to comply with the intent of chapter 42.17 RCW insofar as it requires providing full public access to official records, but shall also consider both the exemptions provided in RCW 42.17.310 through 42.17.315, and the provisions of the statute which require the school to protect public records from damage or disorganization, prevent excessive interference with essential functions of the agency, and prevent any unreasonable invasion of personal privacy by deleting identifying details.

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-110, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-120 Protection of public records.** Requests for public records shall be made at the administrative office of the school in Vancouver, Washington. Public records and a facility for their inspection will be provided by the public records officer. Such records shall not be removed

from the place designated. Copies of such records may be arranged according to the provisions of WAC 72-276-090.

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-120, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-130 Records index.** (1) The school has available for the use of all persons a current index which provides identifying information as to the following records issued, adopted, or promulgated by the school after January 1, 1973:

(a) Final opinions, including concurring and dissenting opinions, as well as orders made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by the agency;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(2) The current index maintained by the school shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-130, filed 7/19/90, effective 8/19/90.]

**WAC 72-276-140 Adoption of form.** The school hereby adopts for use by all persons requesting inspection and/or copying or copies of its records the following form:

REQUEST FOR PUBLIC RECORD TO  
WASHINGTON STATE SCHOOL FOR THE BLIND

- (a) .....  
     Name (please print)                      Signature  
     .....  
     Name or Organization, if applicable  
     .....  
     Mailing Address of Applicant              Phone Number  
     .....
- (b) Date Request Made              Time of Day  
    Request Made:
- (c) Nature of Request .....  
     .....  
     .....
- (d) Identification Reference on Current Index  
     (Please Describe)  
     .....  
     .....  
     .....

- (e) Description of Record, or Matter, Requested if not Identifiable by Reference to the Washington State School for the Blind  
     .....  
     .....  
     .....

Request: APPROVED ..... DENIED ..... Date: ...  
 By .....  
    Name                      Title

Reasons for Denial: .....  
     .....  
     .....

Referred to: ..... Date .....  
 By .....  
    Name                      Title

[Statutory Authority: RCW 72.40.022 and 42.17.250. 90-16-009, § 72-276-140, filed 7/19/90, effective 8/19/90.]

### Chapter 72-280 WAC

#### FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974

##### WAC

72-280-010	Confidentiality of student records.
72-280-011	Definitions.
72-280-015	Notice.
72-280-020	Education records—Parents' (or eligible students') right to inspect.
72-280-025	Education records—Access procedures.
72-280-030	Education records—Amendment.
72-280-040	Disclosure of personally identifiable information from education records.
72-280-050	Safeguards.
72-280-055	Record of access.
72-280-060	Destruction of information.
72-280-070	Directory information.

**WAC 72-280-010 Confidentiality of student records.** In compliance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Sec. 1232(g), and the Education of the Handicapped Act, 20 U.S.C. Secs. 1400 through 1420, this policy has been created:

(1) To ensure that information contained in student education records is treated in a responsible manner with due regard for the personal nature of such information;

(2) To ensure the accuracy of information contained in student education records by providing parents (or eligible students) with the opportunity to inspect the records; and

(3) To ensure the continued confidentiality of such records by establishing procedures governing the release of information contained therein.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-010, filed 7/19/90, effective 8/19/90.]

**WAC 72-280-011 Definitions.** As used in this chapter:

(1) "Directory information" means information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates



of attendance, degrees and awards received, and the most recent previous educational agency or institution attended.

(2) "Disclosure" means to permit access to or the release, transfer, or other communication of education records, or the personally identifiable information contained in those records, to any party, by any means, including oral, written, or electronic means.

(3) "Education records" means those records, files, documents, and other materials that are:

- (a) Maintained by the school; and
- (b) Directly related to a student.

The term "education records" does not include:

(i) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker of the record, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;

(ii) Records of the school security department that are kept apart from education records, maintained solely for law enforcement purposes, and are not available to persons other than law enforcement officials of the same jurisdiction;

(iii) In the case of persons who are employed by but do not attend the school, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose: Provided, That this exception from the definition of "education records" does not apply to records relating to an individual in attendance at the school who is employed as a result of his or her status as a student;

(iv) Records on a student who is eighteen years of age or older that are created and maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity and that are created, maintained, or used only in connection with the treatment of the student; and are not available to anyone other than persons providing such treatment; provided, however, that such records can be personally reviewed by a physician or other appropriate professional of the student's choice;

(v) Records that contain only information relating to an individual after he or she is no longer a student at the school.

(4) "Eligible student" means a student who has reached eighteen years of age. When a student becomes an "eligible student," the rights accorded to, and the consent required of, parents under this chapter, transfer from the parents to the student.

(5) "Parent" means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.

(6) "Party" means an individual, agency, institution, or organization.

(7) "Personally identifiable information" includes, but is not limited to the student's name; the name of the student's parent or other family member; the address of the student or student's family; a personal identifier, such as the student's Social Security number or student number; a list of personal characteristics that would make the student's identity easily traceable; or other information that would make the student's identity easily traceable.

(2007 Ed.)

(8) "Student" means any individual who is or has been in attendance at the school and regarding whom the school maintains education records.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-011, filed 7/19/90, effective 8/19/90.]

**WAC 72-280-015 Notice.** The school shall provide parents of student (or eligible students) currently in attendance with annual notice of their rights under this chapter. The notice shall inform parents (or eligible students) of their right to:

- (1) Inspect and review the student's education records;
- (2) Request amendment of the student's education records to ensure that they are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights;
- (3) Consent to disclosure of personally identifiable information contained in the student's education records;
- (4) Obtain a copy of the school's policy on access to and disclosure of education records; and

(5) File with the United States Department of Education a complaint concerning alleged failures to comply with the requirements of the Family Educational Rights and Privacy Act.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-015, filed 7/19/90, effective 8/19/90.]

**WAC 72-280-020 Education records—Parents' (or eligible students') right to inspect.** (1) A parent, eligible student, or representative of the parent has the right to inspect and review the education records of the student.

(2) Where the education record or data includes information on more than one student, the parent(s) of those students (or the eligible students) shall have the right to inspect and review only the information relating to their child (or themselves) or to be informed of that specific information.

(3) The parent (or eligible student) has the right to obtain copies of the student's education records. Charges for the copies shall not exceed the cost normally charged by the school. However, if the fee effectively prevents the parent (or eligible student) from exercising the right to inspect and review the student's education records, the school may provide such copies free of charge.

(4) The school may presume that a parent has authority to inspect and review records relating to his/her child unless the school has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and dissolution.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-020, filed 7/19/90, effective 8/19/90.]

**WAC 72-280-025 Education records—Access procedures.** (1) A list of the types and locations of education records collected, maintained, or used by the school may be obtained by the parent at the superintendent's office.

(2) A request by a parent (or eligible student) for review of information should be made in writing to the individual or office having custody of the record.

(3) The custodian of the record shall respond to reasonable requests for inspection, explanation, and interpretation of education records within forty-five days from the date the request was received and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or placement of the student. If the records custodian is unable to comply with a request within the above stated period, he or she shall inform the parent (or eligible student) of that fact and the reasons in writing.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-025, filed 7/19/90, effective 8/19/90.]

#### **WAC 72-280-030 Education records—Amendment.**

(1)(a) A parent (or eligible student) who believes that information contained in the education record is inaccurate, misleading, or violates the privacy or other rights of the student, may request the school to amend the information.

(b) The right to challenge, under this chapter, shall not be used to contest grades which are correctly recorded.

(2) The school shall decide whether to amend the record as requested within a reasonable time after receipt of the request.

(3) If the school decides not to amend the record as requested, it shall inform the parent (or eligible student) of the decision and of the right to a brief adjudicative proceeding under WAC 72-108-100.

(4) The school shall, on request, provide an opportunity for a brief adjudicative proceeding to challenge information in the education record on the grounds provided for in subsection (1) of this section.

(5) For the purpose of this chapter:

(a) The decision of the brief adjudicative proceeding must be based solely on the evidence presented at the brief adjudicative proceeding and must include a summary of the evidence and the reasons for the decision.

(b) The parent (or eligible student) may, at their own expense, be assisted or represented by one or more individuals of his or her choice, including an attorney. Where the parent (or eligible student) is represented by an attorney, the school may be represented by an assistant attorney general.

(6) If, as a result of the brief adjudicative proceeding, the school decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall amend the information accordingly and so inform the parent (or eligible student) in writing.

(7) If, as a result of the brief adjudicative proceeding, the school decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall inform the parent (or eligible student) of the right to place in the records it maintains on the student a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the school, (or both).

(8) Any explanation placed in the records of the student under this section must:

(a) Be maintained by the school as part of the records of the student as long as the record or contested portion is maintained by the school; and

(b) Be included with any disclosure of the record or contested portion to which the explanation relates.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-030, filed 7/19/90, effective 8/19/90.]

**WAC 72-280-040 Disclosure of personally identifiable information from education records.** (1) The school shall not permit access to or the release of education records or personally identifiable information contained there (other than "directory information") without the written consent of the parent (or eligible student) to any party other than the following:

(a) School officials, including teachers, when the information is required for a legitimate educational interest within the performance of their responsibilities to the school, with the understanding that its use will be strictly limited to the performance of those responsibilities;

(b) Officials of another school, school system, or institution of postsecondary education who have requested the records and in which the student seeks or intends to enroll, upon condition that:

(i) The parent (or eligible student) be notified of the transfer (unless the disclosure is initiated by the parent or eligible student);

(ii) The parent (or eligible student), upon request, receive a copy of the record that was disclosed; and

(iii) The parent (or eligible student), upon request, receive an opportunity for a brief adjudicative proceeding to challenge the content of the record;

(c) Federal and state officials requiring access to education records in connection with the audit and evaluation of a federal or state-supported education program, or in connection with the enforcement of or compliance with federal or state legal requirements which relate to such programs. In such cases the information required shall be protected by the federal or state official in a manner which will not permit the personal identification of students and their parents to other than those officials and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, or enforcement of legal requirements;

(d) Organizations conducting studies for, or on behalf of the school, for purposes of developing, validating or administering predictive tests, administering student aid programs, and improving instruction: Provided, That the study is conducted in such a manner that does not permit the personal identification of parents and students by persons other than representatives of such organizations, and such information is destroyed when no longer needed for the purposes for which it was provided;

(e) Accrediting organizations in order to carry out their accrediting functions;

(f) Any person or entity designated by judicial order or lawfully issued subpoena: Provided, That the school makes a reasonable effort to notify the parent (or eligible student) of the order or subpoena in advance of compliance. Any school employee receiving a subpoena or judicial order for education records should immediately notify the attorney general;

(g) Those individuals or agencies to which a release of information without consent is permitted by the rules that implement the Family Educational Rights and Privacy Act of 1974, 34 C.F.R. Secs. 99.31 through 99.37.

(2) Where the consent of a parent (or eligible student) is obtained for the release of education records, it shall be in writing, signed and dated by the person giving such consent, and shall include:

- (a) A specification of the records to be released;
- (b) The reasons for such release; and
- (c) The names of the parties to whom such records will be released.

(3) When a disclosure is made under subsection (2) of this section, if a parent (or eligible student) so requests, the school shall provide him or her with a copy of the records disclosed.

(4) Personally identifiable education records released to third parties, with or without parent (or eligible student) consent, shall be accompanied by a written statement indicating that the information cannot be subsequently released in a personally identifiable form to any other party without the prior consent of the parent (or eligible student).

(5) Unless otherwise prohibited by law, information from education records may be released to appropriate persons in connection with an emergency if knowledge of such information is necessary to protect the health or safety of a student or other person(s).

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-040, filed 7/19/90, effective 8/19/90.]

**WAC 72-280-050 Safeguards.** (1) The school shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

(2) A school official shall insure the confidentiality of any personally identifiable information.

(3) The school shall maintain, for public inspection, a current listing of the names and positions of those employees within the school who may have access to personally identifiable information.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-050, filed 7/19/90, effective 8/19/90.]

**WAC 72-280-055 Record of access.** (1) The school shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student.

(2) The school shall maintain the record with the education records of the student as long as the records are maintained.

(3) For each request or disclosure the record must include:

- (a) The name of the party;
- (b) The date access was given; and
- (c) The legitimate interest or purpose for which the party is authorized to use the records.

(4) If the party receiving personally identifiable information makes further disclosures of the information on behalf of the school, the record must include:

- (a) The names of additional parties to which the receiving party may disclose the information; and
- (b) The legitimate interests under WAC 72-280-040 which each of the additional parties has in requesting or obtaining the information.

(2007 Ed.)

(5) Subsection (1) of this section does not apply if the request was from, or the disclosure was to:

- (a) The parent or eligible student;
- (b) A school official under WAC 72-280-040 (1)(a);
- (c) A party with written consent from the parent or eligible student; or
- (d) A party seeking directory information.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-055, filed 7/19/90, effective 8/19/90.]

**WAC 72-280-060 Destruction of information.** (1) Student education records may be destroyed in accordance with state laws and regulations: Provided, That the school shall not destroy any education records if there is an outstanding request to inspect and review the records under this chapter.

(2)(a) The school shall inform parents (or eligible students) when personally identifiable information is no longer needed to provide educational services to the student.

(b) At the request of a parent (or eligible student), the school shall destroy personally identifiable information. However, the school may maintain a permanent record of the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year of completion without time limitation.

(3) For the purpose of this section, "destruction" means physical destruction or removal of personal identifiers.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-060, filed 7/19/90, effective 8/19/90.]

**WAC 72-280-070 Directory information.** (1) The school shall provide public notice to parents of students in attendance and eligible students in attendance at the school of:

(a) The types of personally identifiable information that the school has designated as directory information;

(b) A parent's or eligible student's right to refuse to let the school designate any or all of those types of information about the student as directory information; and

(c) The period of time within which a parent or eligible student has to notify the school in writing that he or she does not want any or all of those types of information about the student designated as directory information.

(2) The school shall not disclose directory information pertaining to a student in attendance at the school without prior written consent from the parents of such student or such eligible student.

[Statutory Authority: RCW 72.40.022 and 20 U.S.C. §§1232(g), 1412 (2)(D), 1414 (a)(1)(B) and 1417(c). 90-16-010, § 72-280-070, filed 7/19/90, effective 8/19/90.]

## Chapter 72-325 WAC

### STATE ENVIRONMENTAL POLICY ACT RULES

#### WAC

72-325-010

Implementation of State Environmental Policy Act.

**WAC 72-325-010 Implementation of State Environmental Policy Act.** (1) It shall be the policy of Washington state school for the blind that all actions taken by the school

shall comply with the provisions of chapter 43.21C RCW (State Environmental Policy Act) and chapter 197-11 WAC as presently enacted or hereafter amended.

(2) The superintendent, or his or her designee, shall be responsible for administering and implementing this policy.

[Statutory Authority: RCW 72.40.022. 90-16-011, § 72-325-010, filed 7/19/90, effective 8/19/90.]